

SENATE BILL 1415

By Ramsey

AN ACT to amend Chapter 76 of the Private Acts of 1917; as amended by Chapter 106 of the Private Acts of 1937; Chapter 68 of the Private Acts of 1955; Chapter 106 of the Private Acts of 1955; Chapter 25 of the Private Acts of 1963; Chapter 486 of the Private Acts of 1968; Chapter 54 of the Private Acts of 1969; Chapter 6 of the Private Acts of 1973; Chapter 281 of the Private Acts of 1974; Chapter 235 of the Private Acts of 1976; Chapter 292 of the Private Acts of 1978; Chapter 283 of the Private Acts of 1978; Chapter 40 of the Private Acts of 1979; Chapter 244 of the Private Acts of 1980; Chapter 198 of the Private Acts of 1982; Chapter 159 of the Private Acts of 1984; Chapter 44 of the Private Acts of 1989; Chapter 47 of the Private Acts of 1995; Chapter 44 of the Private Acts of 1995; Chapter 177 of the Private Acts of 1996 and Chapter 30 of the Private Acts of 2001; and any other acts amendatory thereto, relative to the charter of the city of Kingsport.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 76 of the Private Acts of 1917, as amended by Chapter 68 of the Private Acts of 1955, Chapter 106 of the Private Acts of 1955, Chapter 25 of the Private Acts of 1963, Chapter 486 of the Private Acts of 1968, Chapter 281 of the Private Acts of 1974, Chapter 292 of the Private Acts of 1978, Chapter 198 of the Private Acts of 1982, Chapter 159 of the Private Acts of 1984, Chapter 44 of the Private Acts of 1995, Chapter 177 of the Private Acts of 1996, Chapter 30 of the Private Acts of 2001, and any other acts amendatory thereto, is amended in Article I, Section 2 by deleting the language "*Execution of powers.* City of Kingsport shall have the power and authority." and substituting instead the language "*Execution of powers.* The City of Kingsport shall, by ordinance, resolution or motion, have the power and authority:"; and is further amended by deleting subdivision (8) in Section 2 and substituting instead the following:

(8) *General powers as to property.* To acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the city or state. As it pertains to real property the board of mayor and aldermen shall determine the method or methods used to exercise these powers, which may include, but are not limited to a request for bids, auction, private negotiation, private sale, or any other method available for acquiring, disposing or leasing real property.

SECTION 2. Chapter 76 of the Private Acts of 1917, as amended by Chapter 25 of the Private Acts of 1963, Chapter 283 of the Private Acts of 1978, Chapter 40 of the Private Acts of 1979, and any other acts amendatory thereto, is amended by deleting Section 2 in Article III in its entirety and substituting instead the following:

**Sec. 2. Election, term of mayor; designation of members as board of mayor and aldermen.**

At the general city election in May of 1979, and every two (2) years thereafter, there shall be elected by the qualified voters of the City of Kingsport, a mayor who shall serve a term of two (2) years beginning at the first regular meeting of the board in July following his election. The mayor and aldermen shall together constitute the board of mayor and aldermen of the City of Kingsport.

No person shall be a candidate for the office of mayor and the office of alderman in the same election, nor shall any person hold both offices at the same time.

In the event an incumbent alderman having an unexpired term remaining to serve, shall run and be elected to the office of mayor, upon taking office as mayor the vacancy thus created in the office of alderman shall be filled as hereinafter set out in section 10 of this article.

SECTION 3. Chapter 76 of the Private Acts of 1917, as amended by Chapter 6 of the Private Acts of 1973, Chapter 44 of the Private Acts of 1989, and any other acts amendatory

thereto, is amended by deleting subsection (c) in Section 10 of Article III in its entirety and substituting instead the following:

(c) *Appointment of successors.* After any office becomes vacant, such vacancy in said board shall be filled by appointment within thirty (30) days by an affirmative vote of a majority of the remaining members thereof; provided, however, that no member shall be appointed under this section at any time when the said board already has as many as three (3) members so appointed, but in case of any additional vacancy, the said board shall forthwith by ordinance or resolution call upon the election commissioners for Sullivan County and Hawkins County to call a special election for the purpose of filling such additional vacancy, whereupon said election commissioners shall immediately call such special election and appoint the necessary officers therefor, and said special election shall be held in the same manner as and subject to the regulations in this Charter respecting general city elections.

SECTION 4. Chapter 76 of the Private Acts of 1917, and any other acts amendatory thereto, is amended by deleting Section 3 in Article VI in its entirety and substituting instead the following:

**Sec. 3. Bonds.**

The city manager and every officer, agent and employee having duties embracing the receipt, disbursement, custody or handling of money shall, before entering upon his duties, execute a fidelity bond with some surety company authorized to do business in the State of Tennessee, as surety (except that bonds for five hundred dollars (\$500.00) or less may be given with personal surety), in such amount as shall be prescribed by ordinance of the board of mayor and aldermen, except where the amount is prescribed in this Charter. All such bonds and the sureties thereto shall be subject to the approval of the board of mayor and aldermen. Except where the amount of the bond is prescribed in this Charter, the board of mayor and aldermen may authorize the acquisition of an Employee Honesty Policy in lieu of such bond.

SECTION 5. Chapter 76 of the Private Acts of 1917, as amended by Chapter 106 of the Private Acts of 1937, Chapter 54 of the Private Acts of 1969, Chapter 235 of the Private Acts of

1976, Chapter 292 of the Private Acts of 1978, Chapter 244 of the Private Acts of 1980, Chapter 44 of the Private Acts of 1995, Chapter 30 of the Private Acts of 2001 and any other acts amendatory thereto, is amended by deleting subsection (b) and subsection (h) in Section 2 in Article VII, and substituting instead the following:

(b) *Appointment or removal of officers or employees.* Except as provided in this Charter, to appoint and remove all heads of departments and all subordinate officers and employees, and all appointments to be made on merit and fitness alone. Except for a reduction in force no employee shall be removed except upon specific charges in writing after completion of their six (6) month-probationary period. Any employee except department heads, deputy department heads and confidential employees may request a hearing prior to their final termination. The request for a hearing must be made in writing delivered to the office of the city manager by 5:00 p.m. on the third business day following the notice to the employee that the city manager will act on the termination if the request for a hearing is not timely made. The hearing may be public if requested by the employee and the accused shall have the right to appear and defend in person or by counsel and shall have process of the board of mayor and aldermen to compel attendance of witnesses in their behalf. An employee who is suspended without pay for less than six (6) work days shall not have a right to a formal hearing, but rather shall have a right to have the opportunity to meet with the city manager. The meeting will not be public and at the meeting the employee will have an opportunity to respond and explain before the city manager acts on the suspension. The opportunity for the meeting is waived if the employee fails to request the meeting in writing delivered to the office of the city manager by 5:00 p.m. on the business day following the notice to the employee of the reason for the proposed suspension and that the city manager will act on the suspension, if the request for a meeting is not timely made.

(h) *Purchasing agent; bids required.* To act as purchasing agent of the city and to purchase all material, supplies, equipment and services for the proper conduct of the city's business. The board of mayor and aldermen shall prescribe by ordinance the maximum expenditure which the city manager may make without specific authorization

of the board of mayor and aldermen, and it shall prescribe rules for competitive bidding, but no purchase expending city funds shall be made at any one time in an amount which in the aggregate will exceed fifty thousand dollars (\$50,000.00) unless bids shall have been requested through public advertisement and award made to the lowest responsible compliant bidder in the best interest and advantage of the city. This requirement shall not apply to purchases, leases or lease purchases of real property or any exemptions substantially similar to those contained in § 6-56-304, as amended from time to time.

SECTION 6. Chapter 76 of the Private Acts of 1917, as amended by Chapter 54 of the Private Acts of 1969, Chapter 235 of the Private Acts of 1976, Chapter 292 of the Private Acts of 1978, Chapter 244 of the Private Acts of 1980, Chapter 44 of the Private Acts of 1995, Chapter 47 of the Private Acts of 1995, Chapter 30 of the Private Acts of 2001, and any other acts amendatory thereto, is amended by deleting subsection (a) in Section 1 in Article XX and substituting instead the following:

(a) All contracts expending city funds of more than fifty thousand dollars (\$50,000) shall be awarded to the lowest responsible compliant bidder in the best interest and advantage to the City of Kingsport after publication, advertisement and competition, as may be prescribed by ordinance. This requirement shall not apply to purchases, leases or lease purchases of real property or any exemptions substantially similar to those contained in § 6-56-304, as amended from time to time. No contract for any public work or improvement shall be awarded except on condition that the contractor give bond with some bonding company authorized to transact business in [the State of] Tennessee, as surety, in a sum equal to at least fifty percent (50%) of the contract price of the particular work or improvement for the faithful performance of such contract. In lieu of the bond required in this subsection, the city may, in its sole discretion, allow the following securities or cash to be substituted:

(1) United States Treasury bonds, United States Treasury notes or United States Treasury bills.

(2) General obligation bonds of the State of Tennessee.

(3) Certificates of deposits irrevocably pledged from a state or national bank having its principal office in [the State of] Tennessee.

(4) An irrevocable letter of credit from a state or national bank having its principal office in [the State of] Tennessee. The terms and conditions of any letter of credit shall be subject to the approval of the city treasurer. All letters of credit shall be accompanied by an authorization of the contractor to deliver retained funds to the bank issuing the letter.

(5) Cash, provided that if cash is posted, the city shall pay to the contractor interest at the same rate that interest is paid on funds invested in a local government investment pool established pursuant to Tennessee Code Annotated, Section 9-4-704, for the contract period.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the city of Kingsport. Its approval or nonapproval shall be proclaimed by the presiding officer of the city of Kingsport and certified to the secretary of state.

SECTION 8. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 7.